



**PATENT**  
Attorney Docket No. 27866/32960

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: ) For: "Chitinase Materials and  
Patrick Gray ) Methods"  
Serial No.: 08/663,618 ) Group Art Unit: 1814  
Filed: June 14, 1996 ) Examiner: R. Prouty, Ph.D.

**DECLARATION OF PATRICK GRAY UNDER 37 C.F.R. §1.131**

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

I, Patrick Gray, declare as follows that:

1. I am the sole inventor of the subject matter claimed in the above-identified patent application.
2. I make this declaration to establish that I invented the subject matter recited in the pending claims of this application in the United States at a date prior to November, 1995, which I am informed is the publication date of the article Boots *et al.*, *J. Biol. Chem.*, 270:26252-26256 (1995), which has been cited by the Examiner to support rejections of the claims under 35 U.S.C. §§102 and 103.
3. Exhibit 1 attached hereto is evidence that I invented subject matter of currently pending claims 1-18 (polynucleotides encoding human chitinase, vectors and host cells comprising such polynucleotides, and uses of such host cells) in the United States prior to November, 1995.
4. Exhibit 1 is a laboratory notebook page (with dates covered) dated prior to November, 1995 and recorded by Aaron Smith, a fellow employee at ICOS Corporation,

Bothell, Washington, U.S.A., who performed laboratory work at my direction and under my supervision. This notebook page shows that a plasmid designated MO-218, which contained a DNA insert encoding full length human chitinase, had been isolated before the November, 1995 publication date of the Boots *et al.* article. Plasmid MO-218 is described in Example 1 of the application. Examples 3 and 5 of the application show that the DNA encoded chitinase activity.

5. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Patrick Gray

Date

8 December 1997